

Convention determine that in addition to that there shall also be some forfeiture for treason, I hope still that we may confine this forfeiture within the limits prescribed by the amendment of the gentleman from Prince George's, (Mr. Clarke.) I will conclude by reading from Judge Story what he says upon the reasons upon which the law of olden times, the common law, was founded. At one period of the history of England, the same punishment was visited upon the man who conspired against the life of the king as upon the humblest citizen who was convicted of stealing a chicken—the punishment of death. I will show you what Judge Story has to say of the grounds upon which it was attempted to place this right of forfeiture beyond the life of the party at the expense of innocent offspring:

"The reasons (says Judge Story) commonly assigned for these severe punishments, beyond the mere forfeiture of the life of the party attainted, are these: By committing treason the party has broken his original bond of allegiance, and forfeited his social rights. Among these social rights, that of transmitting property to others is deemed one of the chief and most valuable. Moreover, such forfeitures, whereby the posterity of the offender must suffer as well as himself, will help to restrain a man, not only by the sense of his duty, and dread of personal punishment, but also by his passions and natural affections; and will interest every dependent and relation he has to keep him from offending. But this view of the subject is wholly unsatisfactory. It looks only to the offender himself, and is regardless of his innocent posterity. It really operates as a posthumous punishment upon them, and compels them to bear not only the disgrace naturally attendant upon such flagitious crimes, but takes from them the common rights and privileges enjoyed by all other citizens, where they are wholly innocent, and however remote they may be in the lineage from the first offender. It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own government, and prepares them to engage in any other service, by which their supposed injuries may be redressed, or their hereditary hatred gratified. Upon these and similar grounds it may be presumed, that the clause was introduced into the original draft of the Constitution, and after some amendments it was adopted without any apparent resistance."

I call the attention of members to the fact that when this provision was first reported to the Convention which prepared the federal

Constitution, in 1788, it was precisely or nearly in the identical language in which we now find it incorporated therein. So agreed were the members of that Convention upon this subject, that although they differed widely upon other matters, this proposition was engrafted upon the federal Constitution without resistance and without any argument whatever. Judge Story proceeds:

"By the laws since passed by Congress, it is declared that no conviction or judgment, for any capital or other offences, shall work corruption of blood, or any forfeiture of estate. The history of other countries abundantly proves, that one of the strongest incentives to prosecute offences, as treason, has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich, and good; and of increasing its means to reward favorites and secure retainers for the worst deeds."

Mr. President, I am done. If there be those in this Convention who will not respect the teachings of the able interpreter of constitutional law whom I have just cited, there is small chance of their being influenced by anything that I might say. I conclude with the words of warning addressed by Montesquieu in his *Spirit of the Laws*, "that this offence of treason, more than any other, should be rendered fixed and certain, for if left uncertain and indeterminate, it will speedily carry any country under the yoke of arbitrary and despotic power."

Mr. STOCKBRIDGE. I had not designed to offer any remarks upon the question before the Convention, and would not do so now but for the apprehension that if we surveyed the ground carefully, to see wherein we are agreed, and wherein we differ, we should find that we are, after all, contending about a very small matter. The amendment proposed by my colleague (Mr. Stirling) is this:

"No conviction shall work corruption of blood, nor shall there be any forfeiture of the estate of any person for any crime except treason, and then only on conviction."

The gentleman from Prince George's (Mr. Clarke) has moved to amend that by adding "which forfeiture of estate shall only continue during the life of the person convicted."

My chief objection to that addition is that it leaves the question, in my judgment, ambiguous, which would be clear and positive without the addition. The simple question is one of restriction of the Legislature. Practically the Legislature of Maryland or of any other State has very little to do with treason. At the time of the adoption of our original Constitution, to which the gentleman who has just taken his seat has referred, we were in an entirely different situation from that